



November 5, 2009

By Email

Mr. Michael Pleasant  
Department of Energy Resources  
100 Cambridge Street, Suite 1020  
Boston, MA 02114

Re: New England Clean Energy Council Comments on SREC Price Support Proposal

Dear Mr. Pleasant:

The New England Clean Energy Council appreciates this opportunity to submit comments regarding DOER's Solar RPS Carve-Out Price Support Mechanism Proposal.

The Council's mission is to accelerate the region's clean energy economy to global leadership by building an active community of stakeholders and a world-class cluster of clean energy companies. Integral to that mission is the promotion of renewable power project development including solar energy.

The Council represents a diverse set of stakeholders, including clean energy companies, venture investors, financial and educational institutions, industry associations, utilities, labor representatives, and commercial end-users. In developing these comments, the Council consulted principally with its members who are directly involved in developing and financing solar projects.

The Council appreciates the opportunity to comment and recognizes the substantial commitment DOER has and is making to facilitate solar project development.

### **Summary of Recommendations**

As described in detail below, the Council recommends the following:

- Exclude utility and Recovery Act projects, which already have financing in place and don't need SREC support
- Reform the Auction system to facilitate liquidity and avoid boom-and-bust cyclicity
- Expand the annual and total program size to reflect increasing PV demand; and
- Improve and maintain policy certainty and consistency in transitions.

## Background

The Council's focus in making these comments is on maximizing the commercial utility and viability of SRECs. Even for projects under 2 MWs (the focus per the Green Communities Act), there are a number of different types of project financiers who will look differently at SRECs. It is critical to differentiate among these capital sources and to tailor the program to appeal maximally to those mostly likely to be able to employ them.

First, it should be noted that an SREC program is undoubtedly better suited for supporting commercial distribution projects than smaller scale, residential installations. Homeowner investment decisions typically are heavily weighted on initial price and simple financing structures. The Council supports DOER's efforts to restart and adequately fund the Commonwealth Solar program for small-scale, residential installations.

For commercial projects at the scale of 2MW or less, the various potential financing sources will necessarily tend to view SRECs differently, however configured in their details:

- Solar power users may perceive value in SRECs, but few are likely to have the market expertise to evaluate the auction market or to access any bilateral SREC market. They will tend to look to project developers to buy or to find others to buy SRECs, although some may simply retire SRECs to evidence renewable attributes.
- Commercial and institutional lenders are unlikely to place any value whatsoever on SRECs, absent long-term SREC purchase contracts by utilities or other creditworthy entities. Even if such contracts were available, the small scale of projects eligible for SRECs would hinder project-oriented debt financing. Most project finance lenders generally focus on larger projects; in limited cases, lenders have provided debt financing for a bundling or aggregation of multiple projects. A further constraint will simply be the SREC program's novelty and origin. Lenders often hesitate to rely on a new incentive program until it has one or more years' track record; this tendency will be accentuated in today's constrained financing market. Lenders consider the establishment of the program via emergency regulations and plans to initiate a related rule-making next year as evidence of the program's uncertain future and potential for change due to political needs, neither of which lenders are willing or able to factor into their risk evaluations.
- Developers, and their investors, are the most likely holders of SRECs, either by continuing ownership of generation assets or through arrangements negotiated with solar power users. It is from the perspective of these potential SREC holders that the Council principally reflects in these comments.

## Specific Recommendations

### ➤ **Exclude Utility-proposed and Recovery Act-supported solar projects from SREC eligibility.**

Solar projects funded by the Recovery Act and those proposed or to be proposed by the utilities already have financing support directly from the government or through statutory cost recovery. They consequently do not need the SREC incentive; moreover, as a result of this double dipping, they will have a competitive advantage over conventionally funded projects, the market for which is likely to be more than correspondingly depressed as developers focus on opportunities in other states.

***Recommendations:** exclude utility proposed projects and projects receiving Recovery Act support from SREC eligibility. If they remain eligible, increase the Minimum Standard by 50MW over several years to account for the utility projects and by 20MW over 2010 and 2011 to account for Recovery Act-supported projects.*

### ➤ **As proposed, the Auction system may not create a predictable floor price for SRECs.**

The proposed price support mechanism of the SREC program is intended to foster bi-lateral contracts. Developers need to evidence a SREC revenue stream to justify the up-front investment. However, there are few incentives for utilities to enter into such contracts during the year. A one-time opt-in deposit opportunity at the end of each year forces those generating SRECs throughout the year to seek bi-lateral contracts if they need to secure or evidence cash revenues earlier than following the results of an auction. Their only means of inducing purchases is to accept a price below \$300/MWh (especially for multi-year contracts), as utilities can simply wait until year-end to acquire needed SRECs. The net effect, especially if the market is long on SRECs, will be to reduce investor returns (thus deterring additional investment) or lengthen customer pay-back periods (thus depressing demand). In the event that the market is very long on SRECs, uncertainty about whether the auction will clear the excess supply will lead to similar downward price pressure. Such uncertainty is more likely in the first year of operation in 2010, given the program's novelty, the recent decline in capital costs, and the absence of intra-year means to modulate investments.

***Recommendations:** schedule auctions quarterly to improve liquidity; allow third-party purchasers who may have bought SRECs bilaterally to deposit them in the Opt-In Auction Account to facilitate bi-lateral contracting (this will foster project financing by investors willing and able to have financial exposure to the SREC market); if the first round Opt-In Auction fails to clear the market, trigger an automatic, increase in the annual carve out compliance requirement before the second round is held. We recommend that the increase be large enough that the projected compliance demand will increase by more than 150% times the number of Extended Life SRECs in the Fixed Price Auction to avoid future price depression (i.e., the boom-and-bust cycle), which is the likely result from only a Shelf Life extension. The increase of the future requirement*

would be similar to the Auction Account Reliance Trigger, only it would occur immediately after each Opt-In Auction that does not clear.

➤ **The annual and aggregate Minimum Standard caps are too low.**

Both current circumstances and long-term trends suggest significant solar photovoltaic demand growth. The most obvious evidence is in the early exhaustion of Commonwealth Solar Phase I funding. But, more importantly, demand is likely to continue to increase in response to dramatic declines in installed costs, the onset of net metering, and the expanding number of developers proposing 1-2MW projects. If the Minimum Standard is not increased, the SREC mechanism could, perversely, constrain market demand.

***Recommendation:** increase the initial annual Minimum Standard for 2010 significantly to, say, 30MW; increase the Minimum Standard cap to, say, 1000MW, which would likely (over the expected 30 year life of projects) have a de minimis effect on retail rates. The higher cap would accommodate a likely gradual reduction of the Opt-in Auction Eligibility over ten years (projects commissioned in later years could still be relying on three to four years of Opt-in Auction eligibility in 2017). In so doing, it would ease the graduation for solar from SREC to REC. Absent such an increase, the Minimum Standard cap could be reached prior to market economics enabling a smooth transition to the REC market. Given the 30+ year project life of solar projects, the maximum rate payer impact of the incremental 600MW selling at the Opt-in Auction price of \$300/MWh would remain modest.*

➤ **Improve program transition and provide regulatory certainty.**

Unfortunately, this program was not launched before the exhaustion of Commonwealth Solar Phase I funding, contrary to the Council's 09 September 2009 suggestion. As a result, there has been immense uncertainty in the market, with solar developers putting projects on hold or not initiating projects; as they turn their attention to other states, there may be a consequent lag in ramp-up of demand.

***Recommendations:** specify that the emergency regulations will apply throughout 2010, with assurances that the planned rule-making commencing in January will include sufficient transition mechanisms to avoid a repeat of the current market disruption.*

In addition to these important suggestions, the Council reiterates its comments in its 09 September 2009 letter to DOER (a copy of which is attached for your convenience), especially those relating to securitization, the scope of the carve-out requirement, and the "on-site" definition.

Finally, the Council recognizes the complexity of this effort and reiterates its appreciation of DOER's efforts. The Council consequently is willing to meet with DOER if that might be helpful to refine and improve the SREC program.

Thank you for the opportunity to submit these comments. I am of course available if you have any questions or suggestions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nick d'Arbeloff', written over a light gray rectangular background.

Nick d'Arbeloff  
President

CC: Ian Bowles, Secretary, EOEEA  
Philip Giudice, Commissioner, DOER

Attached: NECEC letter dated 9 September 2009